

ESTTA Tracking number: **ESTTA617280**Filing date: **07/23/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Abercrombie & Fitch Trading Co.
Granted to Date of previous extension	07/23/2014
Address	6301 Fitch Path New Albany, OH 43054 UNITED STATES

Correspondence information	Abercrombie & Fitch Trading Co. 6301 Fitch Path New Albany, OH 43054 UNITED STATES ipdocketingwest@abercrombie.com Phone:6142836930
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Applicant Information

Application No	86062759	Publication date	03/25/2014
Opposition Filing Date	07/23/2014	Opposition Period Ends	07/23/2014
Applicant	EAST ABERCORN CLOTHING COMPANY 207 Sherry Lynn Place Harvest, AL 35749 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Belts; Boots; Coats; Gloves; Hats; Hooded sweatshirts; Jackets; Jeans; Knit shirts; Pants; Scarfs; Shirts; Shoes; Short-sleeved or long-sleeved t-shirts; Shorts; Slippers; Sneakers; Socks; Sport coats; Sport shirts; Suits; Suspenders; Sweaters; Sweatpants; Sweatshirts; T-shirts; Tank tops; Ties


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	951410	Application Date	02/16/1971
Registration Date	01/23/1973	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U039 (International Class 010, 025, 026). First use: First Use: 1903/01/01 First Use In Commerce: 1903/01/01 MEN'S AND WOMEN'S CLOTHING AND FOOTWEAR-NAMELY[, SUITS, TROUSERS,] PANTS,[SHORTS,] SHIRTS, SKIRTS, [DRESSES, SHIRTS, CULOTTES, SWEATERS, BLOUSES,] JACKETS,[BLAZERS, BATHROBES,] COATS, [OVERCOATS, RAINCOATS, CAPES, STORMCOATS, TRENCH COATS, SLICKERS,] GLOVES, MITTENS,[SCARFS, TIES,] HATS, [PAJAMAS, NEGLIGEEES,HOSIERY,] UNDERWEAR, [BOOTS,]SHOES, [SLIPPERS, MOCCASINS, WADERS, OVERSHOES, RUBBERS,] BELTS,[FISHING VESTS, WADING JACKETS, SWIM SUITS AND TRUNKS, BREECHES,] CAPS, [MUFFLERS, HELMETS, HANDKERCHIEFS, PONCHOS, AND BANDANNAS]

U.S. Registration No.	2305464	Application Date	04/14/1998
Registration Date	01/04/2000	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/07/10 First Use In Commerce: 1998/07/10 Clothing, namely, coats, jackets, knit shirts, woven shirts, t-shirts, shirts, underwear, pants, jeans, hats and shoes Class 035. First use: First Use: 1998/07/10 First Use In Commerce: 1998/07/10 Retail clothing store services		


U.S. Registration No.	2500146	Application Date	09/08/2000
Registration Date	10/23/2001	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1996/11/00 First Use In Commerce: 1996/11/00 personal care products, namely, [body wash, shower gel and] perfume Class 014. First use: First Use: 1998/02/00 First Use In Commerce: 1998/02/00 jewelry, namely, necklaces and bracelets		

	Class 018. First use: First Use: 1996/08/00 First Use In Commerce: 1996/08/00 [backpacks,] [duffel bags, gym bags,]handbags, tote bags and travel bags Class 025. First use: First Use: 1992/08/00 First Use In Commerce: 1992/08/00 clothing, namely, t-shirts, sweatshirts, sweatpants, jeans, sandals, [socks,]visors, tank tops, swimwear, [bras,][thongs], bikinis and camisoles
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U.S. Registration No.	3381674	Application Date	09/05/2007
Registration Date	02/12/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH		
Design Mark			
Description of Mark	The mark consists of Abercrombie & Fitch in a stylized font.		
Goods/Services	Class 025. First use: First Use: 1997/07/31 First Use In Commerce: 1997/07/31 [Belts; Bathing suits; Boardshorts;] Boxer shorts; Camisoles; Caps; Cargo pants; Coats; Crewnecks; [Flip flops;] Hats; Jackets; Jeans; Knit shirts; Lounge pants; Loungewear; Nightwear; Pajama bottoms; Pants; Polo shirts; Shirts; Short- sleeved or long-sleeved t-shirts; Shorts;[Skirts and dresses; Sweat pants;] Sweat shirts; [Sweat shorts;] Sweaters;[Swim trunks; Swim wear;]T-shirts; Tank-tops; Underwear		


U.S. Registration No.	3484799	Application Date	02/14/2008
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1998/07/10 First Use In Commerce: 1998/07/10 Coats; Jackets; Knit shirts; Shirts; T-shirts; Underwear; Pants; Jeans; Hats; Shoes

U.S. Registration No.	3975200	Application Date	08/24/2009
Registration Date	06/07/2011	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE KIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2010/01/14 First Use In Commerce: 2010/01/14 Belts; Bottoms; Coats; Dresses; Footwear; Gloves; Headwear; Jackets; Leggings; Scarves; Sleepwear; Swimwear; Tops; Undergarments		

U.S. Registration No.	3545441	Application Date	03/25/2005
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE NEW YORK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2007/06/27 First Use In Commerce: 2008/01/28 Clothing, namely, dresses, footwear, swim wear Class 035. First use: First Use: 2008/04/00 First Use In Commerce: 2008/04/00 Retail store services and on-line retail services featuring clothing


U.S. Registration No.	3545444	Application Date	03/25/2005
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH NEW YORK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/07/15 First Use In Commerce: 2008/07/15 Clothing, namely, blazers and scarves Class 035. First use: First Use: 2008/04/00 First Use In Commerce: 2008/04/00 Retail store services and on-line retail services featuring clothing		


U.S. Registration No.	3221989	Application Date	01/13/2006
Registration Date	03/27/2007	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH 92		

Design Mark	ABERCROMBIE & FITCH 92
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1999/11/30 First Use In Commerce: 1999/11/30 Clothing, namely, hats, caps, visors, shirts, t-shirts, tank tops, knit tops, woven tops, halter tops, sweatshirts, sweatpants, jogging pants, swimwear, underwear, boxer shorts, [bras, panties, hosiery, socks,] pants, short pants, jeans, dresses, skirts, belts, footwear, sweaters, vests, gloves, coats, jackets, and scarves

U.S. Registration No.	3374463	Application Date	03/25/2005
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE NEW YORK		
Design Mark	ABERCROMBIE NEW YORK		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/02/00 First Use In Commerce: 2007/02/00 Clothing, namely, camisoles, coats, jackets, jeans, knit shirts, knit tops, pants, shirts, sweat shirts, t-shirts, tanktops and vests		

U.S. Registration No.	3438431	Application Date	03/25/2005
Registration Date	05/27/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE & FITCH NEW YORK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/03/00 First Use In Commerce: 2005/03/00 Clothing, namely, beachwear, blouses, boxer shorts, camisoles, coats, dresses, jackets, jeans, knit shirts, knit tops, loungewear, pajamas, pants, shirts, shorts, skirts, slacks, sleepwear, sweat pants, sweat shirts, sweat shorts, sweaters, swim wear, t-shirts, tank tops, underpants, underwear

U.S. Registration No.	3443071	Application Date	03/25/2005
Registration Date	06/03/2008	Foreign Priority Date	NONE
Word Mark	ABERCROMBIE NEW YORK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/05/00 First Use In Commerce: 2008/03/00 Clothing, namely, [belts, blouses, boxer shorts, caps, hats,] loungewear, pajamas, [shorts, skirts, slacks,] sleepwear, sweat pants, [sweat shorts, sweaters, underpants, and underwear]		

Attachments	75467849#TMSN.png(bytes) 76124449#TMSN.png(bytes) 77271595#TMSN.png(bytes) 77397350#TMSN.png(bytes) 77811495#TMSN.png(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/LindsayYeakeIcapps/
Name	Abercrombie & Fitch Trading Co.
Date	07/23/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Abercrombie & Fitch Trading Co.,)	
Opposer,)	Opposition No. _____
v.)	Application No. 86/062,759
Curtis Lee D/B/A East Abercorn Clothing Company)	Date of Filing: September 12, 2013
Applicant.)	Subject Mark: EAST ABERCORN CLOTHING COMPANY (& Design)

NOTICE OF OPPOSITION

Opposer, Abercrombie & Fitch Trading Co., an Ohio corporation with its principal place of business at 6301 Fitch Path, New Albany, Ohio 43054, believes that it is or will be damaged by registration of Application No. 86/062,759, owned by Curtis Lee D/B/A East Abercorn Clothing Company, an individual with an address of 207 Sherry Lynn Place, Harvest, Alabama 35749.

The opposed application, Application No. 86/062,759, was filed for registration on the Principal Register on September 12, 2013 for clothing, footwear and related accessories in International Class 25.

The opposed application was published for opposition on March 25, 2014. An extension of time to oppose this application was timely sought by Opposer and duly granted.

As grounds for the Opposition, it is alleged that:

1. The parent company of Opposer, Abercrombie & Fitch Co., is one of the largest manufacturers, wholesalers and retailers of high quality, casual apparel and accessories for men, women, and children with an active, youthful lifestyle in the U.S.A. The parent company and its predecessors in interest have been engaged in the business of manufacturing and selling high-end

apparel and related accessories in the United States for over 100 years under the brand name “Abercrombie & Fitch.”

2. Opposer, Abercrombie & Fitch Trading Co., is a wholly owned subsidiary and holding company of Abercrombie & Fitch Co., the parent company, a Delaware corporation.

3. Opposer is the owner of numerous US Registrations for the following ABERCROMBIE marks (collectively, the “ABERCROMBIE Marks”):

MARK	REG. NO.	REG. DATE	CLASS	FIRST USE DATE
ABERCROMBIE & FITCH	US Reg. No. 951,410	01/23/1973	Int’l Class: 25	01/01/1903
abercrombie	US Reg. No. 2,305,464	01/04/2000	Int’l Class: 25	07/10/1998
ABERCROMBIE & FITCH	US Reg. No. 2,500,146	10/23/2001	Int’l Class: 25	08/01/1992
Abercrombie & Fitch	US Reg. No. 3,381,674	02/12/2008	Int’l Class: 25	07/31/1997
ABERCROMBIE	US Reg. No. 3,484,799	08/12/2008	Int’l Class: 25	07/10/1998
ABERCROMBIE KIDS	US Reg. No. 3,975,200	06/07/2011	Int’l Class: 25	01/14/2010
ABERCROMBIE NEW YORK	US Reg. No. 3,545,441	12/09/2008	Int’l Class: 25	01/28/2008
ABERCROMBIE & FITCH NEW YORK	US Reg. No. 3,545,444	12/09/2008	Int’l Class: 25	07/15/2008
ABERCROMBIE & FITCH 92	US Reg. No. 3,221,989	03/27/2007	Int’l Class: 25	11/30/1999
ABERCROMBIE NEW YORK	US Reg. No. 3,374,463	01/22/2008	Int’l Class: 25	02/01/2007
ABERCROMBIE & FITCH NEW YORK	US Reg. No. 3,438,431	05/27/2008	Int’l Class: 25	03/01/2005
ABERCROMBIE NEW YORK	US Reg. No. 3,443,071	06/03/2008	Int’l Class: 25	03/01/2008

4. All of Opposer’s Registrations identified in the chart above, are *prima facie* evidence of the validity thereof and Opposer’s ownership and exclusive right to use these marks in commerce, and are constructive notice of Opposer’s ownership thereof, all as provided by §§ 7(b) and 22 of the Federal Trademark Act of 1946, as amended.

5. Opposer's registrations for ABERCROMBIE (Stylized) (Reg. No. 2,305,464), ABERCROMBIE & FITCH (Reg. No. 2,500,146), ABERCROMBIE & FITCH (Stylized) (Reg. No. 3,381,674), ABERCROMBIE (Reg. No. 3,484,799), ABERCROMBIE NEW YORK (Reg. No. 3,374,463), and ABERCROMBIE & FITCH NEW YORK (Reg. No. 3,438,431) are incontestable under 15 U.S.C. §1065, and as such, these registrations are conclusive evidence of the validity of the registered marks, of Opposer's ownership of the marks and of the Opposer's exclusive right to use the mark with the goods and services.

6. Opposer and its predecessors in interest have sold a wide variety of men's and women's clothing, footwear and other accessories under the ABERCROMBIE Marks for over a hundred years, beginning at least as early as 1903. Opposer and its predecessors in interest have also sold goods under the ABERCROMBIE Marks in related classes and offered retail store services under the ABERCROMBIE Marks.

7. Opposer's use of its ABERCROMBIE Marks has been valid and continuous since at least as early as each respective date of first use and has not been abandoned.

8. Opposer's total sales revenue for the Abercrombie brand is in the multi-billions. Opposer has prominently and extensively used, promoted and advertised its ABERCROMBIE Marks for products and services through varied promotional and advertising media.

9. Opposer's Abercrombie branded goods, including but not limited to clothing, footwear and related accessories, are sold in its "Abercrombie & Fitch" and "abercrombie" stores, as well as through its websites www.abercrombie.com and www.abercrombiekids.com.

10. As a result of Opposer's long and continuous use since at least as early as 1903, and its substantial investment in advertising and promotion, Opposer's ABERCROMBIE Marks have become famous and well-known among its actual and target purchasers of casual apparel as well as other members of the public, as a distinctive symbol of Opposer's goodwill.

11. Opposer's ABERCROMBIE Marks became famous and well-known prior to any use by Applicant of its mark and application for registration thereof.

12. Applicant is the owner of US Application No. 86/062,759, which was filed on September 12, 2013 under Section 1(B) of the Trademark Act, for the mark EAST ABERCORN CLOTHING COMPANY (& Design) covering "Belts; Boots; Coats; Gloves, Hats; Hooded sweatshirts; Jackets; Jeans; Knit Shirts; Pants; Scarfs; Shirts; Shoes; Short-sleeved or long-sleeved t-shirts; Shorts; Slippers; Sneakers; Socks; Sport coats; Sport shirts; Suits; Suspenders; Sweaters; Sweatpants; Sweatshirts; T-shirts; Tank tops; Ties" in International Class 25.

13. Applicant's proposed use of the design mark EAST ABERCORN CLOTHING COMPANY will inevitably capitalize upon the fame and distinctiveness of Opposer's ABERCROMBIE Marks which have acquired renown in connection with, among other things, clothing, footwear and related accessories.

14. Applicant's mark so resembles Opposer's ABERCROMBIE Marks previously used by Opposer as to cause mistake, or to deceive, or to cause confusion as to source, sponsorship or affiliation.

15. Applicant's proposed use of EAST ABERCORN CLOTHING COMPANY (& Design) is likely to dilute Opposer's ABERCROMBIE Marks.

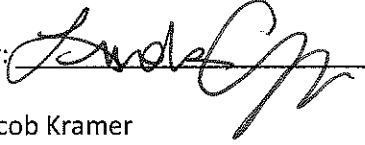
16. Registration of Applicant's mark will lessen the capacity of Opposer's famous name and mark to identify and distinguish its goods and services.

17. WHEREFORE, for the foregoing reasons, Opposer respectfully requests that the present Opposition be sustained and the registration of Application No. 86/062,759 be refused.

July 23, 2014

Respectfully submitted,

Abercrombie & Fitch Trading Co.

By: 

Jacob Kramer

Lindsay Capps

Attorneys for Opposer

6301 Fitch Path

Columbus, Ohio 43054

(614) 283-6500

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lindsay_capps@abercrombie.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the correspondent of record by mailing said copy on July 23, 2014 via first class mail, postage prepaid to:

Curtis Lee
East Abercorn Clothing Company
207 Sherry Lynn Place
Harvest, Alabama 35749

s/Lindsay Yeakel Capps/

Attorney for Opposer